

C.C.R.B. CASE CLOSING FORM

Investigator Assigned: Joelle Sfeir	Team: Team # 6	CCRB Case # : 200409169	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> Discourtesy <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Date/Time of Incident: 09/16/2004 4:30 PM	Location of Incident: Corner of Wortman and Van sicken Avenue	Pct. of Occurrence: 75	Date S.O.L. Expires: 03/16/2006	
Date/Time C/V Reported: 09/17/2004 2:09 PM	C/V Reported At: CCRB	How C/V Reported: Phone	Date/Time Received at CCRB: 09/17/2004 2:09 PM	

Complainant/Victim	Type	Home Address
1. § 87(2)(b)	Comp/Victim	§ 87(2)(b)
2. § 87(2)(b)	Victim	§ 87(2)(b)
3. § 87(2)(b)	Victim	§ 87(2)(b)
4. § 87(2)(b)	Victim	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Roberto Melendez	05442	899587	075 PCT

Witness Officer(s)	Shield	TaxID	Command
1. POM Brian Depalo	06252	923752	
2. POM Michael Lennihan	13407	927076	075 PCT
3. POM Rafael Vega	14955	921833	075 PCT

Officer(s)	Allegation	Recommendation
A. SGT Roberto Melendez	Abuse of Authority: Sgt. Roberto Melendez supervised the stops and questioning of § 87(2)(b) and § 87(2)(b)	A. § 87(2)(g)
B. SGT Roberto Melendez	Abuse of Authority: Sgt. Roberto Melendez supervised the stop and questioning of § 87(2)(b)	B. § 87(2)(g)
C. SGT Roberto Melendez	Abuse of Authority: Sgt. Roberto Melendez supervised the frisks of § 87(2)(b) and § 87(2)(b)	C. § 87(2)(g)
D. SGT Roberto Melendez	Abuse of Authority: Sgt. Roberto Melendez supervised the search of the car in which § 87(2)(b) was an occupant.	D. § 87(2)(g)
E. SGT Roberto Melendez	Abuse of Authority: Sgt. Roberto Melendez supervised the search of § 87(2)(b)	E. § 87(2)(g)

Synopsis

§ 87(2)(b) and § 87(2)(b) claim that officers, including Sgt. Melendez, PO Depalo, PO Lennihan, and PO Vega, stopped them, requested their identifications and the identifications of the men they were with, frisked the entire group, and searched § 87(2)(b) vehicle. § 87(2)(b) also claimed that officers searched him. The officers admitted to running the identification of one man, § 87(2)(b), but documentation shows that § 87(2)(b) identification was also run. § 87(2)(g)

§ 87(2)(b)

Summary of Complaint

§ 87(2)(b) called the CCRB on September 17, 2004 to complain about an incident with police officers that took place the previous day. § 87(2)(b) had already filed a complaint about officers' behavior during his arrest on September 7, 2005, generating CCRB case 200408990. This earlier incident also involved PO Lennihan and PO Depalo, who effected § 87(2)(b) arrest, with the help of their partner at the time, PO Dominick Friscia. PO Friscia injured his hand during the struggle to apprehend § 87(2)(b) who resisted arrest, and had to receive medical treatment. Also during this arrest, the officers found narcotics in § 87(2)(b) vehicle. § 87(2)(b) provided a more detailed statement of the September 16 incident during his CCRB interview on October 18, 2004 (encs. 3B-3C). § 87(2)(b) stated that on September 16, at approximately 4:30 PM, he was standing outside near the corner of Wortman Avenue and Van sicle Avenue talking to his wife on his cell phone. § 87(2)(b) was wearing gray sweatpants and a basketball jersey. § 87(2)(b) friend, § 87(2)(b) lives at § 87(2)(b), and § 87(2)(b) had just picked up a box of school supplies for his children from § 87(2)(b) apartment.

§ 87(2)(b) car was parked outside of § 87(2)(b) and he had just placed the box in his trunk, opened the car doors for § 87(2)(b) who was wearing green sweatpants, and § 87(2)(b) a friend of § 87(2)(b) and started up the car when his phone rang. § 87(2)(b) stepped about twenty feet away from his green Cadillac, to speak to his wife. While he was on the phone, § 87(2)(b) saw PO Depalo and another officer, later identified as Sgt. Melendez, drive past. The officers looked at § 87(2)(b) and drove around the block making a left; they then returned to where § 87(2)(b) was.

§ 87(2)(b) and § 87(2)(b) were sitting in the back of § 87(2)(b) car because he was planning on driving them to McDonalds. PO Depalo was driving the vehicle, a green car, and pulled over by the parking area. Sgt. Melendez exited the passenger side and approached § 87(2)(b). PO Depalo remained in the vehicle. Sgt. Melendez, who was not present for § 87(2)(b) previous encounter with the police, told § 87(2)(b) that they did not want any problems like last time and that they were not trying to give him a hard time. § 87(2)(b) responded that since Sgt. Melendez was not even there for the incident, PO Depalo must have told him what happened and that the officers were giving him a hard time by harassing him.

Sgt. Melendez asked § 87(2)(b) if he could search him and if he had any weapons on him. § 87(2)(b) said, "Don't touch me. I've got on sweatpants. Does it look like I've got anything on me in these sweatpants," and lifted up his shirt so that Sgt. Melendez could see. Sgt. Melendez still tried to frisk § 87(2)(b). § 87(2)(b) again instructed the officer not to touch him, saying that he lacked probable cause. Sgt. Melendez eventually patted § 87(2)(b) pockets down, and § 87(2)(b) did not physically resist. § 87(2)(b) was still on his cell phone at this point.

Sgt. Melendez pointed to § 87(2)(b) vehicle and asked if that was his vehicle. § 87(2)(b) refused to answer, informing the officer that he did not need to know. § 87(2)(b) told Sgt. Melendez that he was standing away from the car and that there was no reason for him to ask about a parked vehicle. Sgt.

Melendez approached the car parked next to § 87(2)(b) and peered inside. Sgt. Melendez then went to § 87(2)(b) car. § 87(2)(b) has tinted windows, and they were up at the time.

Sgt. Melendez told § 87(2)(b) and § 87(2)(b) to roll down the windows and began to question them. Sgt. Melendez ordered § 87(2)(b) and § 87(2)(b) to step out of the vehicle. PO Depalo approached after exiting his vehicle, and the two officers proceeded to frisk § 87(2)(b) and § 87(2)(b). § 87(2)(b) could not see if the officers just patted the men down or if they went into their pockets. § 87(2)(b) stated that the officers did not remove any property from him or his friends.

A black male, approximately 5'10" and of medium build, wearing a baseball cap was also stopped because he was standing nearby the group, and the officers assumed he was with them. § 87(2)(b) did not know this man, and the man was not speaking to the group at the time. § 87(2)(b) did not know at what point this man arrived and did not know his name. The officers frisked this man when they were frisking § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) assumed that PO Depalo called for backup at some point because the short, stocky officer from § 87(2)(b) previous arrest, later identified as PO Lennihan, arrived in a black Impala with another officer, later identified as PO Vega.

§ 87(2)(b) and § 87(2)(b) stood by the rear of § 87(2)(b) vehicle, and Sgt. Melendez and PO Vega then searched the vehicle. The officers searched the entire vehicle including the trunk, which they opened after removing the key from the ignition. Nothing was removed from the vehicle, but the officers threw all the school supplies from the box all over the trunk.

§ 87(2)(b) hung up with his wife and walked over to his vehicle. When he asked the officers the reason for the search, PO Lennihan said that they had received a call about four men smoking marijuana in a car. § 87(2)(b) pointed out his tinted windows and told the officer that no one would be able to see into his car to see anyone smoking. § 87(2)(b) repeatedly requested to hear the callback from the dispatcher. PO Lennihan did not answer.

§ 87(2)(b) becoming upset, demanded to know why the officers were conducting an illegal search of his vehicle. § 87(2)(b) began to yell at the officers about how they were harassing him. § 87(2)(b) instructed § 87(2)(b) to "calm down" and not to make matters worse. The officers just ignored § 87(2)(b).

PO Depalo requested everyone's identification, including the identification of the man § 87(2)(b) did know, and returned to his vehicle to run the information. Everyone complied with this request immediately. When PO Depalo was through, he returned § 87(2)(b) driver's license, keys, registration, and insurance card. § 87(2)(b) and § 87(2)(b) also received their identification and keys. § 87(2)(b) believed the unknown man was arrested because the officers discovered upon checking his identification that there was an open warrant for him. § 87(2)(b) did not know if PO Depalo explained what the warrant was for but stated that the officers did not stop the man because of the warrant. This was only discovered after they detained him as part of § 87(2)(b) group.

At this point, § 87(2)(b) mother, who lives with him, was walking home from the store and approached to find out what was occurring. PO Lennihan rudely instructed § 87(2)(b) to move back and that they would explain later. § 87(2)(b) stood nearby, and another officer explained to § 87(2)(b) that her son was not going to be arrested and that everything was fine. PO Lennihan again rudely ordered § 87(2)(b) to move back and wait. § 87(2)(b) asked why the officers were harassing the group, and PO Lennihan said that § 87(2)(b) was going to go through this every time because he has a case against the officers.

The officers handcuffed the unknown man, who did not resist, and § 87(2)(b) believed he was placed in the vehicle that PO Depalo was driving. The officers eventually left; the whole incident lasted approximately a half-hour.

Results of Investigation

Civilian Statements

§ 87(2)(b)

§ 87(2)(b) was interviewed in front of the CCRB on October 18, 2004 (enc. 4B). He stated that on September 16, 2004 at approximately 4:30 PM, he was sitting in § 87(2)(b) car, which was parked on Wortman Avenue near Van sicle Avenue. § 87(2)(b) and his friend, § 87(2)(b) were sitting in the back seat of § 87(2)(b) vehicle eating. § 87(2)(b) was not certain of § 87(2)(b) last name but believed it to be § 87(2)(b). They had gotten food from McDonalds earlier and then returned to § 87(2)(b) home so that § 87(2)(b) could get his box of games that was at his apartment. They then walked back outside to eat their food. § 87(2)(b) friend, § 87(2)(b) had been walking by and stopped to speak with him. § 87(2)(b) was about to get in the back seat on the driver's side. § 87(2)(b) was outside speaking on his cell phone.

§ 87(2)(b) saw two officers, later identified as PO Depalo and Sgt. Melendez, pull up in a green car. § 87(2)(b) stated that § 87(2)(b) did not have a chance to get in the vehicle because the officers approached and asked everyone to step out the vehicle so that they could search it. One of the officers approached § 87(2)(b) and the other approached § 87(2)(b). § 87(2)(b) stepped out of the vehicle when the officers asked him to.

The officers then asked for everyone's identification, which they provided. PO Depalo frisked § 87(2)(b) and then Sgt. Melendez went through all of his pockets. PO Depalo took their identification back to the police vehicle. About six to eight officers eventually arrived, but § 87(2)(b) did not know at what point and did not see all of them arrive. He stated that two of the officers arrived in a blue car while PO Depalo and Sgt. Melendez were questioning him about his parole status. One of these officers, most likely PO Lennihan, also searched § 87(2)(b).

PO Depalo and probably PO Lennihan searched the vehicle. § 87(2)(b) was not watching the officers throughout the entire search but saw them search the front and back seats. The officers also went through the trunk. § 87(2)(b) did not notice the officers remove anything from the vehicle.

§ 87(2)(b) and § 87(2)(b) were also frisked. § 87(2)(b) thinks that the officers also searched § 87(2)(b) and § 87(2)(b) but during this time he was speaking to another officer and did not specifically notice them going into their pockets. § 87(2)(b) did not observe the extent of the officers' interaction with § 87(2)(b). § 87(2)(b) did not know any of the officers and stated that they all looked similar. Most of the officers were in plainclothes. § 87(2)(b) thinks one officer was in uniform, but that officer was just passing by and not really involved.

§ 87(2)(b) walked away at one point because his identification had checked out. § 87(2)(b) who was underage, approximately § 87(2)(b) years old, was also released before § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) asked why the officers had stopped them. The officer in the sunglasses responded that they had received a call that four men were outside making a lot of noise. § 87(2)(b) asked for descriptions of the men and requested repeatedly to hear the call over the radio. The officers did not tell him any other reason for the stop.

About five minutes after the officers approached, § 87(2)(b) mother arrived on her way home from the store. § 87(2)(b) asked the officers what was going on, and the officer in the sunglasses responded rudely, ordering her to move back. § 87(2)(b) remained outside for the rest of the incident.

After about ten more minutes, the officers left. § 87(2)(b) stated that as far as he knows no one was arrested as a result of the incident.

§ 87(2)(b)

According to § 87(2)(b) § 87(2)(b) is his next-door neighbor and resides at § 87(2)(b) § 87(2)(b) did not have § 87(2)(b) phone number but agreed to give him the investigator's card. § 87(2)(b) never contacted the CCRB. No useful listings were found in MetroSearch, so on December 2, 2004 a please call letter was sent to § 87(2)(b) However, on December 10 this letter was returned to sender, citing no such street. The correct building address is § 87(2)(b) On February 8, 2005 a field trip was conducted to look for § 87(2)(b) A group of young men outside the apartment buildings did not know § 87(2)(b) or § 87(2)(b) Some girls inside § 87(2)(b) stated that they knew § 87(2)(b) as § 87(2)(b) but did not know what apartment he lived in. Please call letters for § 87(2)(b) were left at the mailboxes in § 87(2)(b) Though a number was listed for a § 87(2)(b) at § 87(2)(b), the phone number was not correct and was for a different address. The people who resided at that number had no knowledge of § 87(2)(b) or Kamel Reese, and Verizon had no records for anyone with the last name of § 87(2)(b) at § 87(2)(b) § 87(2)(b) has remained unavailable and did not provide a statement.

§ 87(2)(b)

BADS searches revealed no information for § 87(2)(b) the man who was arrested on an open warrant during the incident. § 87(2)(b) address was obtained from police documents, and on March 21, 2005 a field trip was conducted to § 87(2)(b) home. § 87(2)(b) was not home, but § 87(2)(b) mother and cousin took the investigator's information for § 87(2)(b) and said that they would have him call the investigator. § 87(2)(b) mother also provided her phone number. On March 23, § 87(2)(b) mother was contacted and again stated that she would have § 87(2)(b) call. On March 23 a please call letter was also sent to § 87(2)(b) § 87(2)(b) mother was again contacted on March 28. § 87(2)(b) was not in, but she assured the investigator that she had passed on the message. On March 29 § 87(2)(b) called from Riker's Island, where he is being held until May. § 87(2)(b) remembered sitting in a vehicle on the corner of Wortman and Van sicken Avenues with three men that he knew from the neighborhood. He did not know their names. Two police officers arrived, claiming that they had received reports of people smoking marijuana. One of these officers was "harassing" a light-skinned black man who was speaking on his telephone a short distance away, apparently for no reason. § 87(2)(b) was arrested on an open warrant. By the end of the instance, there were six officers on the scene. § 87(2)(b) stated that he could not remember very much about the incident but would be willing to provide a statement. § 87(2)(b) was informed that he would be interviewed on Riker's Island. However, on April 1 Ms. Taylor's mother called on behalf of § 87(2)(b) § 87(2)(b) saying that he would not provide a statement at Rikers, but would provide one at the end of May after his release. § 87(2)(b) said that he would either come to the CCRB at that time or provide a statement at his home. However, § 87(2)(b) never contacted the CCRB after his release, and on June 6 a voicemail message was left for § 87(2)(b) § 87(2)(b) mother called in response to the message and said that she did not know § 87(2)(b) whereabouts and has no way of contacting him. She agreed to have him call if he stopped by her home. On June 16 § 87(2)(b) mother was again contacted. § 87(2)(b) had still not been in touch with her, and she has no means of contacting him.

Officer Statements

Sgt. Roberto Melendez:

Sgt. Roberto Melendez was interviewed on February 1, 2005 at the CCRB (enc. 5D). Sgt. Melendez had no relevant entries in his memo book but stated that on September 16, 2004 he was working a 9:26 AM to 6:10 PM tour as the anti-crime supervisor in vehicle #972 with PO Depalo.

Sgt. Melendez at first refused to make any comment on the incident repeatedly citing a need for "more details" even though he "vaguely" recalled what the investigator was referring to. Sgt. Melendez could not articulate what part of the incident he recollected though asked numerous times to elaborate. Various parts of the incident and details about the people present were described to assist Sgt. Melendez in recollecting the event.

Sgt. Melendez stated that PO Lennihan and PO Vega are part of his anti-crime team and that they often work together; he further stated that he stops a lot of people. After his attention was brought repeatedly to the incident in question, Sgt. Melendez acknowledged that an arrest may have been made on that day near

Wortman Avenue and Van siclen Avenue. A gentleman was arrested on an open warrant that was discovered when his identification was run. Sgt. Melendez did not remember his name.

Sgt. Melendez stated that each day the officers receive a list of wanted suspects from the precinct and that the team then goes around looking for them. One of the men in the group that was present on Wortman Avenue near Van siclen Avenue resembled a suspect for the homicide that Sgt. Melendez was investigating. Sgt. Melendez could not remember which one of the men resembled the suspect and does not know if it was the man that was arrested. Sgt. Melendez did not know when the homicide occurred, if it occurred that day or even if it occurred some time in the recent past. He did not recall the details of the homicide. He did state that they only suspected one person.

Sgt. Melendez has no idea what the homicide suspect looked like nor could he describe any of the people stopped. Sgt. Melendez initially stated that there was only a description of the suspect printed out, but he later referred to a photograph of the suspect. Sgt. Melendez clarified they had a wanted poster with the photograph and description of the individual.

Sgt. Melendez did not know why they ran the identification of the man they eventually arrested and did not know if everyone's identification was run. Sgt. Melendez stated that the man he arrested could have been with others but did not specifically remember who was there. He did not know if the man they suspected was in a vehicle or standing outside. He did not remember PO Depalo nor anyone present alluding to a prior encounter between one of the men and PO Depalo. When questioned further about the officers' interaction with men, Sgt. Melendez stated, "I don't remember anything basically."

Sgt. Melendez did not recall what happened upon the officers' approach. He did not know when the man's identification was requested. Sgt. Melendez did not remember whether the group was informed of the homicide investigation but stated that as general practice, he informs the people of the reason for the stop. Sgt. Melendez did not remember the men being frisked or searched and did not remember any officer searching the vehicle. He did not remember if the man who was arrested was merely frisked and searched as incident to an arrest or if he was searched before.

PO Lennihan and PO Vega eventually responded to the location, but Sgt. Melendez did not remember if he had called them to the scene or if they just happened to drive past. He could not recall at what point these officers arrived but stated that the man was already apprehended. None of the other individuals were arrested. Sgt. Melendez did not recall who transported the arrested individual to the precinct. Sgt. Melendez did not remember the age of the man they arrest and did not recall if he was a minor.

He did not recall any female appearing at the scene.

PO Brian Depalo:

PO Brian Depalo was interviewed at the CCRB on February 2, 2005 (enc. 6D). PO Depalo read from his memo book: "4:30 PM one under arrest, § 87(2)(b) at the corner of Wortman and Van siclen in regards to an open § 87(2)(b). Sgt. Melendez on the scene. 4:40 PM arrived at 75 stationhouse, prisoner lodged for warrants division to come pick him up (enc. 6B)." PO Depalo stated that on September 16, 2004 he was working a 9:30 AM by 6:05 PM anti-crime tour in vehicle #972 with Sgt. Melendez.

At approximately 4:30 PM, PO Depalo and Sgt. Melendez were doing routine patrols, focused on robberies, burglaries, and shootings, in the vicinity of Wortman Avenue and Van siclen Avenue when they drove past three or four black men hanging around a vehicle, parked facing north on Wortman Avenue. One of the men looked like a juvenile. Some of the men were in the vehicle and some were just standing nearby. This housing project was prone to shooting and robberies, and one of the men in the group standing outside of the vehicle, later identified as § 87(2)(b) resembled an individual on a wanted poster for a homicide.

PO Depalo did not recall the specific homicide that the individual was wanted for, only that he was on the 75th precinct's most wanted posters, which he reviews on a daily basis. PO Depalo could not remember

specifically which features of § 87(2)(b) resembled the suspect's photograph. § 87(2)(b) was in his mid-20s and heavyset. PO Depalo did not know what type of homicide the man was wanted for, whether or not it was a shooting. He did not know when the homicide occurred or where it took place. He stated that it was probably recent, perhaps a week before the incident.

PO Depalo and Sgt. Melendez drove back around, pulled over, exited their vehicle, and approached the men. PO Depalo stated that the men might have been smoking marijuana since there was an odor present. However, the officers did not see anyone smoking, and, as they do not search for drugs, nothing came of their suspicions. The windows of the vehicle were down, but the doors were shut. The officers looked at the wanted photograph and realized that it was not § 87(2)(b). PO Depalo then requested § 87(2)(b) identification, which he provided. When PO Depalo ran § 87(2)(b) identification, it showed that § 87(2)(b) had an open gun charge pending. PO Depalo stated that § 87(2)(b) identification was run just to verify his name and date of birth. He said even though the officers realized he was not the gentleman they were looking for, facial features can change over time and he wanted to be certain of the man's identity. PO Depalo did not request any other individual's identification.

§ 87(2)(b) who was involved in a previous incident with PO Depalo, approached as the officers were questioning § 87(2)(b). § 87(2)(b) was not in the initial group of men, but he knew them. § 87(2)(b) recognized PO Depalo and acknowledged him with a nod. PO Depalo did not engage in conversation with § 87(2)(b) because he was aware that § 87(2)(b) had a prior complaint against him, and PO Depalo did not want any further incidents with § 87(2)(b).

§ 87(2)(b) was complaining about how the officers were stopping § 87(2)(b) but PO Depalo did not respond. No one mentioned the prior incident that occurred on September 7, 2004. Sgt. Melendez was also aware of § 87(2)(b) prior incident; however, he did not speak to § 87(2)(b) either. § 87(2)(b) remained about fifteen feet away from the group and officers.

PO Depalo called the warrants division to verify that the warrant was still open and that the man should be brought in to the 75th Precinct. The officers handcuffed § 87(2)(b) who did not resist, and transported him to the 75th precinct stationhouse. § 87(2)(b) was still on the scene and speaking with the other men in the group when the officers left the scene. The juvenile's mother approached at one point to find out what was going on. The officers explained the situation to her and informed her that her son was not being detained or arrested. The mother took custody of her son.

§ 87(2)(b) was not placed under arrest; he was simply detained and transported to the precinct so that warrants could investigate the charge. § 87(2)(b) was frisked and searched at the precinct but not at the scene. None of the other individuals were frisked or search, and PO Depalo does not remember anyone exiting the vehicle.

PO Depalo did not recall any other officers responding to the scene and did not request that any respond.

PO Michael Lennihan:

PO Michael Lennihan was interviewed at the CCRB on February 3, 2005 (enc. 7D). PO Lennihan had no relevant entries in his memo book regarding this incident but stated that on September 16, 2004 he was working a 9:30 AM by 6:05 PM anti-crime tour assigned to vehicle #8150 with PO Vega.

At approximately 4:30 PM, PO Lennihan and PO Vega were driving past Wortman Avenue and saw that PO Depalo and Sgt. Melendez had an individual in handcuffs. PO Lennihan did not recall whether he was responding to a radio call or if he just happened to drive by. PO Lennihan and PO Vega asked if the officers needed any assistance, and the officers indicated that they did not. PO Lennihan did not recall what the man looked like but stated that he had been placed in custody on an open warrant for § 87(2)(b).

PO Lennihan noticed a couple of people nearby but did not know if they were with the individual who was in handcuffs. PO Lennihan did not see PO Depalo or Sgt. Melendez speaking with anyone other than the

man in handcuffs. The other people did not appear to be detained. PO Lennihan had no idea how close the other people were to the officers. PO Lennihan did not see the officers frisk or search any person and did not see them search a vehicle. PO Lennihan did not notice § 87(2)(b) at the scene.

PO Depalo and Sgt. Melendez were placing the man into their vehicle when PO Lennihan and PO Vega left the scene. PO Lennihan was on the scene for approximately three minutes.

PO Raphael Vega:

PO Rafael Vega was interviewed at the CCRB on March 15, 2005 (enc. 8D). PO Vega had no relevant entries in his memo book but stated that on September 16, 2004 he was working a 9:30 AM by 6:05 PM anti-crime in unmarked vehicle #8150 with PO Lennihan. PO Vega had no recollection of the incident.

Police Documents

The SPRINT showed that 75SP8, Sgt. Melendez and PO Depalo's unit, put over a non-crime corrected at 4:31 PM (enc. 10A). There was no SPRINT regarding a 911 call about four men smoking marijuana.

The stop and frisk reports and log from the 75th precinct for September 16, 2005 were "missing," and the request was not filled.

The command log from the 75th Precinct listed an arrest of "§ 87(2)(b) [sic]" by PO Depalo in the vicinity of Wortman and Van sicken Avenues at 4:30 PM. The command log provided § 87(2)(b) name and date of birth and listed "warrant" as the charge (enc. 13A).

New York State Police revealed that checks performed under Sgt. Melendez's tax number were run on September 16, 2004 (encs. 11A-11Q). At 4:04 PM there was a check for § 87(2)(b) (DOB: § 87(2)(b) address: § 87(2)(b)). A violent felon warrant regarding a § 87(2)(b) was found for § 87(2)(b). At 4:05 PM a search was performed for license plate #§ 87(2)(b) found to be a 1999 Ford belonging to § 87(2)(b). At 4:06 PM "§ 87(2)(b) [sic]" with DOB § 87(2)(b) was run, and at 4:07 PM § 87(2)(b) was checked. § 87(2)(b) name was run again at 4:09 PM.

MISD documents showed a warrant check performed with Sgt. Melendez's tax number on September 16, 2004 at 4:08 PM for "§ 87(2)(b) [sic]" (enc. 12A)."

Subject Officer CCRB Histories

Sgt. Melendez has had no substantiated CCRB complaints (enc. 1A).

Civilian CCRB Histories

§ 87(2)(b) has filed two other CCRB complaints, § 87(2)(b) (enc. 1B) § 87(2)(b)

§ 87(2)(b) filed one prior complaint, § 87(2)(b) (enc. 1C).

Criminal Conviction History

As of July 25, 2005, the NYPD discontinued the CCRB's direct access to the BADS database. Although the NYPD is fulfilling the CCRB's request for BADS records, it has refused to provide the CCRB with the arrest histories of CCRB witnesses.

Conclusions and Recommendations

MOS Identification

§ 87(2)(b) was familiar with PO Depalo and PO Lennihan as these officers had effected his arrest on September 7, 2004. Sgt. Melendez was working with PO Depalo that day, and PO Vega was with PO Lennihan. Also, both § 87(2)(b) and § 87(2)(b) described Sgt. Melendez accurately. Furthermore, Sgt. Melendez's tax identification was used to run § 87(2)(b) and § 87(2)(b) identifications that day. § 87(2)(g)

Undisputed Facts

On the afternoon of September 16, PO Depalo and Sgt. Melendez stopped a man standing next to or sitting in a vehicle with a small group. § 87(2)(b) and § 87(2)(b) identifications were run, and § 87(2)(b) was eventually taken into custody because he had an open warrant. PO Vega and PO Lennihan arrived at the scene at some point though the extent of their involvement is in dispute.

Credibility Assessment

§ 87(2)(g) § 87(2)(b) claimed no knowledge of anyone being apprehended during the incident and stated that both § 87(2)(b) and § 87(2)(b) were released before himself and § 87(2)(b) § 87(2)(g)

§ 87(2)(b) admitted that the officers all looked similar to him and that he was not familiar with any of the officers; § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) While PO Depalo and Sgt. Melendez agree that someone in the group resembled a man on one of their wanted posters, PO Depalo stated that this man's identification was run and that he was eventually taken in. PO Depalo specified that the officers only ran this man's identification. Sgt. Melendez, however, did not recall whether the person whose identification was run and who was eventually handcuffed was the same man who resembled the poster. § 87(2)(g)

§ 87(2)(g)

Pleading of Allegations

§ 87(2)(g)

§ 87(2)(g)

Allegation A: Sgt. Roberto Melendez supervised the stops and questioning of § 87(2)(b) § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) claimed that Sgt. Melendez and PO Depalo questioned everyone and that PO Depalo eventually ran everyone's identification. PO Depalo denies running identification for anyone other than § 87(2)(b) whom he initially believed resembled a suspect on a wanted poster. However, documentation from both the New York State Police and MISD demonstrated without question that § 87(2)(b) § 87(2)(b) name was checked for outstanding warrants on September 16 within minutes of the check on § 87(2)(b) Furthermore, the run was performed at a terminal which had Sgt. Melendez's tax number logged in. § 87(2)(g)

PO Depalo stated that upon approaching § 87(2)(b) the officers realized that he was not the man from the wanted poster. PO Depalo then proceeded to request § 87(2)(b) identification despite this realization. PO Depalo's explanation for this request was that the officers wanted to verify the man's identity. Sgt. Melendez, on the other hand, was not certain that the man who resembled the wanted poster was the man whose identification was run and who was eventually arrested on an open warrant.

§ 87(2)(g)

PO Depalo admitted to recognizing him. § 87(2)(g)

Regarding the stop of § 87(2)(b) only PO Depalo cited his resemblance to the wanted poster as the reason for the stop. Sgt. Melendez did not know which man resembled the poster. Also, neither officer could remember any part of the suspect's description or any details about the homicide he was suspected of. § 87(2)(g)

Allegation B: Sgt. Roberto Melendez supervised the stop and questioning of § 87(2)(b)

§ 87(2)(g)

Allegation C: Sgt. Roberto Melendez supervised the frisks of § 87(2)(b) and § 87(2)(b)
Allegation D: Sgt. Melendez supervised the search of the car in which § 87(2)(b) was an occupant.
Allegation E: Sgt. Roberto Melendez supervised the search of § 87(2)(b)

§ 87(2)(g)

Both stated that they were not able to fully view certain events because each was focused on the officer dealing with him. § 87(2)(b) did state that he believed both PO Depalo and Sgt. Melendez were involved in the frisk of § 87(2)(b) § 87(2)(g)

Both attest that

the entire vehicle was searched, including the trunk. In fact, § 87(2)(b) described in detail how the items from a box in his trunk were strewn about after the officers were finished.

§ 87(2)(g)



Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: